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10/053,979	01/19/2002	Nikrooz Niknamad	RSNN	5154

7590 07/29/2003
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EXAMINER

MAI, TRI M

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 07/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/053,979

Applicant(s)

NIKNAMAD, NIKROOZ

Examiner

Tri M. Mai

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 5-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Claims 5-24 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 3.

Drawings

2. The following are selected quotations from 37 CFR 1.84, standards for drawings.

(h) Views.

The drawing must contain as many views as necessary to show the invention. The views may be plan, elevation, section, or perspective views. Detail views of portions of elements, on a larger scale if necessary, may also be used. All views of the drawing must be grouped together and arranged on the sheet(s) without wasting space, preferably in an upright position, clearly separated from one another, and must not be included in the sheets containing the specifications, claims, or abstract. Views must not be connected by projection lines and must not contain center lines.

(1) Exploded views. Exploded views, with the separated parts embraced by a bracket, to show the relationship or order of assembly of various parts are permissible. When an exploded view is shown in a figure which is on the same sheet as another figure, the exploded view should be placed in brackets.

(2) Partial views. When necessary, a view of a large machine or device in its entirety may be broken into partial views on a single sheet, or extended over several sheets if there is no loss in facility of understanding the view. Partial views drawn on separate sheets must always be capable of being linked edge to edge so that no partial view contains parts of another partial view. A smaller scale view should be included showing the whole formed by the partial views and indicating the positions of the parts shown. When a portion of a view is enlarged for magnification purposes, the view and the enlarged view must each be labeled as separate views.

(i) Where views on two or more sheets form, in effect, a single complete view, the views in the several sheets must be so arranged that the complete figure can be assembled without concealing any part of any of the views appearing on the various sheets.

(ii) A very long view may be divided into several parts placed one above the other on a single sheet. However, the relationship between the different parts must be clear and unambiguous.

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(3) Sectional views. The plane upon which a sectional view is taken should be indicated on the view from which the section is cut by a broken line. The ends of the broken line should be designated by Arabic or Roman numerals corresponding to the view number of the sectional view, and should have arrows to indicate the direction of sight. Hatching must be used to indicate section portions of an object, and must be made by regularly spaced oblique parallel lines spaced sufficiently apart to enable the lines to be distinguished without difficulty. Hatching should not impede the clear reading of the reference characters and lead lines. If it is not possible to place reference characters outside the hatched area, the hatching may be broken off wherever reference characters are inserted. Hatching must be at a substantial angle to the surrounding axes or principal lines, preferably 45° . A cross section must be set out and drawn to show all of the materials as they are shown in the view from which the cross section was taken. The parts in cross section must show proper material(s) by hatching with regularly spaced parallel oblique strokes, the space between strokes being chosen on the basis of the total area to be hatched. The various parts of a cross section of the same item should be hatched in the same manner and should accurately and graphically indicate the nature of the material(s) that is illustrated in cross section. The hatching of juxtaposed different elements must be angled in a different way. In the case of large areas, hatching may be confined to an edging drawn around the entire inside of the outline of the area to be hatched. Different types of hatching should have different conventional meanings as regards the nature of a material seen in cross section.

(4) Alternate position. A moved position may be shown by a broken line superimposed upon a suitable view if this can be done without crowding; otherwise, a separate view must be used for this purpose.

(5) Modified forms. Modified forms of construction must be shown in separate views.

(m) Shading.

The use of shading in views is encouraged if it aids in understanding the invention and if it does not reduce legibility. Shading is used to indicate the surface or shape of spherical, cylindrical, and conical elements of an object. Flat parts may also be lightly shaded. Such shading is preferred in the case of parts shown in perspective, but not for cross sections. See paragraph (h)(3) of this section. Spaced lines for shading are preferred. These lines must be thin, as few in number as practicable, and they must contrast with the rest of the drawings. As a substitute for shading, heavy lines on the shade side of objects can be used except where they superimpose on each other or obscure reference characters. Light should come from the upper left corner at an angle of 45° . Surface delineations should preferably be shown by proper shading. Solid black shading areas are not permitted, except when used to represent bar graphs or color.

3. The drawings are objected:

It is unclear where the cross sections in Fig. 2 is taken from.

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It is unclear where is the step in Fig. 2. Furthermore, it seems that portion 18 is not the same as shown in Fig. 1C.

It is unclear how the protrusion 20 is formed. The drawings are vague with respect to the formation of the step 20 (?).

It is unclear where portion 32 is in relation with the whole container.

Furthermore, the embodiment in Fig. 2 is confusing, and the examiner cannot recognize individual elements. Applicant is required to provide a full picture of the cup with the lid and appropriate section where Fig. 2 is taken from.

Applicant is also reminded of the standards for drawing according to 37 CFR 1.84 including the designation of proper cross sections, and clear establishment of hidden lines.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings **will be held in abeyance**.

Due to the confusing nature of the drawings, failure to provide a complete response to all drawing objections will not be considered as a bona-fide attempt, and consideration of the application may be suspended.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites a means for preventing spillage. However, the claim further recites a structure of excluding the means for preventing spillage. It is unclear whether the means for preventing spillage is included in the claim. If yes, then the limitations excluding the means for preventing spillage must be removed from the claim.

Furthermore, having the means for preventing spillage, the container would no longer have the step in the rim.

“a cup, being a sheet of paper” is incorrect. The cup is formed from a sheet of paper.

In claim 4, it is unclear what is the “trapezoidal shape” in claim 4.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over the disclosed prior art. The disclosed prior art shows a cup having a cap with a drinking aperture. The disclosed prior art does not teach the means for preventing spillage result from the step in the rim. Official Notice is taken that it is known to coffee drinkers to twist the cap so that aperture on the cap does not align with step on the rim. It would have been obvious to one of ordinary skill in the art to twist the cap so that the aperture on the cap does not align with the step on the rim of the container to drink from the cup easily.

8. Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over the disclosed prior art in view of Schram et al. (4090660). The disclosed prior art shows a cup having a cap

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with a drinking aperture. The disclosed prior art does not teach the means for preventing spillage result from the step in the rim. Schram teaches that it is known in the art to use a strap to drink from a container. It would have been obvious to one of ordinary skill in the art to use the straw as the means for preventing spillage to drink from the container easily.

9. Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aellen, Jr. et al. in view of Clements (4589569). Aellen teaches a container with a means preventing spillage as shown in fig. 5 compared to Fig. 4 with a gap 54. Aellen meets all claimed limitations except for the cap having a drinking aperture. Clements teaches that it is known in the art to provide a cap with a drinking aperture. It would have been obvious to one of ordinary skill in the art to provide a cap with a drinking aperture in Aellen as taught by Clements to provide an alternative cap for drinking from the cup easily.

Conclusion

10. In view of the 112 matters as set forth above, the allowability of claims 3 and 4 can not be determined at this time.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (703)308-1038. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W Young can be reached on (703)308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-3579 for regular communications and (703)305-3579 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1148.

Tri M. Mai *T. Mai*
Primary Examiner
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July 24, 2003